
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

I.T.R. No. 152 of 1989

Date of decision: 17.1.2007

The Commissioner of Income-tax, Patiala ...Petitioner

Versus

M/S Jiwan Singh Parshotam Dass, Patiala ...Respondent

**CORAM: HON'BLE MR.JUSTICE M.M.KUMAR
 HON'BLE MR.JUSTICE RAJESH BINDAL**

Present: Mr.Yogesh Putney, Advocate for the revenue.

RAJESH BINDAL, J.

Following questions of law have been referred for opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh(for short 'the Tribunal') arising out of its order dated 25.1.1979 passed in I.T.A.No. 197 of 1976-77, in respect of the assessment year 1970-71:-

1. Whether on the facts and in the circumstances of the case there is any legal or admissible evidence on the record to support the finding of the Appellate Tribunal that the assessee had disclosed the source alongwith an estimated income there from in a so called earlier return where as admittedly there was no mention of it in the duplicate return subsequently filed by it?
2. Whether on the facts and in the circumstances of the case the Appellate Tribunal was right in law in holding that penalty under section 271(1) was not exigible?

The dispute in the present case pertains to levy of penalty imposed upon the assessee under Section 271(1)(c) of the Income Tax Act, 1961(for short 'the Act'). The penalty was ultimately set aside by the Tribunal by recording a finding that the assessee had neither concealed the income nor furnished inaccurate particulars thereof so as to bring it within the ambit of section 271(1) (c) of the Act for the imposition of penalty.

Counsel for the revenue could not point out any material on record, which could enable this Court to hold that the findings recorded by the Tribunal, to the effect that the assessee had neither concealed the income nor furnished inaccurate particulars thereof, are perverse. The Inspecting Assistant Commissioner was found to have levied the penalty without any basis. Merely if a second view is possible on the facts found by the Tribunal, the Tribunal having taking a particular view, this Court does not find the same to be perverse or impossible.

Accordingly, the questions referred are answered against the revenue and in favour of the assessee.

The reference is disposed of.

(Rajesh Bindal)
Judge

January 17,2007
Pka

(M.M.Kumar)
Judge